

*Supreme Court Appellate Division  
First Department*

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New York, N. Y. 10010*

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January 12, 1981

*wjc/dlg*  
23 JAN 1981

PERSONAL & UNOFFICIAL

*Theodore R. Kupferman*  
*Associate Justice*

Hon. William J. Casey  
Central Intelligence Agency  
Washington, D. C.

Dear Bill:

I thought that you would be interested in seeing the attached item in the Columbia Law School Alumni newspaper, which reports on Bill Colby's speech at the Humanist Society, which program I moderated. Bill does a marvelous job, especially with a hostile audience.

I trust all goes well with you.

Best regards.

Sincerely,

*T.R.K.*  
Theodore R. Kupferman

Enc.

THE NEW YORK TIMES, WEDNESDAY, DECEMBER 10, 1980

## Notes on People

wjc/dlg  
23 JAN 1981

### Colby Defends C.I.A., but Also Concedes Its Flaws

Assuring his audience that he was "not a cloak-and-dagger man showing only the cloak and not the dagger," William E. Colby, the former Director of Central Intelligence, lifted the cloak a bit Monday night at a free-wheeling "dialogue meeting" of the Humanist Society of Metropolitan New York.

According to an infiltrator at the meeting, in a not-so-secret upper room at Rosoff's restaurant, Mr. Colby was both candid and disarming as he defended the need for a secret intelligence agency. He fielded spirited challenges from such civil libertarians as Prof. Paul Lehmann of the Princeton Theological Seminary and Algernon D. Black, head of the Ethical Culture Society.

When Corliss Lamont, the philosopher, recalled that he had won both damages and an apology after suing

the C.I.A. for opening mail he had sent his wife from Moscow, Mr. Colby said that the practice had stopped and that he had been against it all along.

Conceding that "we did a lot of things wrong," Mr. Colby provided reassurance of sorts when he said the "stupidest" thing the C.I.A. had ever done was to enlist organized-crime figures in an effort to kill Cuba's President Fidel Castro. "You couldn't find a more inept crowd than the Mafia," he said.



The New York Times

William E. Colby

## Hurst Delivers Carpentier Lectures

Professor James Willard Hurst delivered the 24th James S. Carpentier Lectures to overflow audiences at Columbia Law School on October 15, 16, and 17th. Speaking before a group of 300 in the Joseph M. Proskauer Auditorium, the Vilas Professor of Law at the University of Wisconsin examined "The Jurisprudence of Legislation" in a comprehensive study of the role of statutes in modern American law. In three lectures he elaborated his theory that "statute law is the central element of the modern legal order."

Professor Hurst was introduced on successive days by Law School Dean Albert J. Rosenthal, Vice Dean Arthur W. Murphy O'48, and Nash Professor John M. Kernochan O'48. Dean Rosenthal noted that the distinguished legal historian's most recent book, *Law and Social Order in the United States* (1977), had received the Triangle Award of the Order of the Coif and the Award of the American Philosophical Society. Professor Kernochan mentioned that Professor Hurst's earlier work, *The Growth of American Law: The Law Makers* (1950), had been seminal to his own early legal training, and said that it was fortunate for students of both disciplines that Professor Hurst "sees law as a part of history, and history as a part of law."

The initial lecture focused on the legislative process, the second on statutory interpretation, and the third on the constitutionality of statutes. "The centrality of the legislative process" was an early theme in the lectures as Professor Hurst stressed the distinctive char-

acter of the legislative branch's "open door jurisdiction," noting that the legislatures "have their door open to entertaining any subject the legislators care to bring up." Though the public may perceive legislatures as inefficient and haphazard, he said, blame for that must be placed on the legislators, not on any lack of power and authority invested in them.

The Carpentier Lecturer also noted that the pitfalls of "drift and inertia" may be the social norm, but that science and technology and the legislative process are our weapons to combat them. "A sound jurisprudence," he concluded, "is going to put the legislative process at the center of a future public policy process."

Addressing an attentive audience of students, faculty and interested scholars, Professor Hurst began the second lecture noting that "We have to view statutes as the product of process." He used the Federal Kidnapping ("Lindbergh Baby") Act as an example of how an act can be part of a learning process for legislators, pointing out how the cases caused the adjustment of the original kidnapping act to encompass more fully the proscribed actions of abduction.

Professor Hurst closed the lectures with a discussion of the primacy of the Constitution, stating "There are no simple ways to rebut the presumption of constitutionality of statutes. Only when one reads the code phrase 'preferred values' can a lawyer suspect that the Supreme Court may not apply the presump-



J. Willard Hurst, the 24th Carpentier Lecturer

tion of constitutionality." In recent years, statutes using racial or gender criteria, interfering with public policymaking processes, relating to non-political communications such as the arts (apart from the obscenity doctrine), and penalizing abortion and contraception, have not had the benefit of the presumption of constitutionality. He commented that "resource allocation, these days, is in the realm of presumption of constitutionality," though in the past it may have been arguably a "preferred value" of the high court.

It is not known at presstime in what form Professor Hurst's Carpentier Lectures will be published. He is at this time preparing a text based upon the notes used in the Lectures. Information on the publication of the 24th James S. Carpentier Lectures will be made available in an upcoming issue of the *Observer*. ■

## HUMANIST GROUP HEARS COLBY, KUPFERMAN



Columbia Law alumnus William E. Colby J'47 was the featured speaker at a "Dialogue" sponsored by the Humanist Society of Metropolitan New York, a chapter of the American Humanist Association, on December 8. Before an audience of over 100 Society members, guests, and press representatives, Mr. Colby addressed the question, "Should the C.I.A. be Abolished?" in a program moderated by the Hon. Theodore Kupferman '43. Also present were several veterans of the Office of Strategic Services, the military command for which Mr. Colby worked during the Second World War.

Beginning with a brief history of intelligence-gathering, Mr. Colby, Director of Central Intelligence from 1973 to 1976, outlined the changing priorities of the Agency in today's "Information Age." He recalled that when the C.I.A. was formed in 1947 from a nucleus of O.S.S. personnel, it was directed "to be more ruthless than our adversaries if necessary to achieve our ends." It was not until the Vietnam War and Watergate, "two rather traumatic incidents in our history," that the C.I.A. became legally and constitutionally accountable and liable for its actions, he said. Mr. Colby, who was Director during this "traumatic" period, feels that the C.I.A. was "wounded" by the forced disclosures of its covert activities. Nevertheless, he thinks that in the five years since the congressional investigation the Agency has recovered and has returned to its tasks of "collecting, analyzing and sharing intelligence" with little adverse effect from the probe.

The traditional definition of intelligence—the spy stealing the secret so that the general can win the battle—has given way, Colby said, to an extensive network of technological enterprises, scholars, and researchers, whose purpose it is to keep the nation's diplomatic, political and business leaders apprised of the latest data relevant to their specific concerns. "In

the world of today," he said, "this broader concept of modern intelligence is clearly essential to enable us to deal with suspicious super-powers and turbulent Third-World situations. With knowledge, we can defend and deter attack against us, and go on to negotiate solutions to the frictions and fears that could otherwise injure us." To that end, he feels that the C.I.A. "has become a permanent part of our operational and analytical foreign policy."

Justice Kupferman of the New York State Supreme Court moderated a lively question-and-answer period. Responding to one accusation, Mr. Colby asserted that "no foreign official was ever assassinated by the C.I.A.," to which some audience members chorused a series of names, such as Lumumba, Allende and Mossadegh. Mr. Colby reviewed some of the allegations, expressing disapproval of such actions in peacetime, but defending any future policy involving wartime missions of that sort. "When our young men and their young men are killing each other, the old men shouldn't be immune," he said. Concerning the attempt to kill Cuban Premier Fidel Castro by recruited organized crime figures in the early 1960s, Mr. Colby's characterization of that plan was: "the stupidest thing the Agency ever did . . . You couldn't find a more inept crowd than the Mafia."

Frank W. Snepp III, who visited the Law School this past April to participate in a seminar called "C.I.A. Censorship: Has the Public Lost the Right to Know About Government Censorship?" was an interested spectator at the Humanist Dialogue. He is a former C.I.A. analyst and author of *Decent Interval*, a book about the Agency in Vietnam. Mr. Snepp, whose father, Hon. Frank W. Snepp, Jr., was a Law School classmate of Justice Kupferman and Mr. Colby, recently lost his appeal of the decision in *Snepp v. United States* to confiscate the royalties from his book on the C.I.A. in Vietnam because the manuscript had not been cleared by the Agency prior to publication.

Mr. Snepp's question to his former chief concerned recent allegations by former top Agency officer Cord Meyer that Mr. Colby, while Director, had "given away the family jewels" in 1975 when he opened the Agency's covert operations file to Senate investigators. Mr. Colby denied that he had destroyed the C.I.A.'s value to the nation with his actions, replying that "American intelligence is no longer the secret prerogative of the executive, but has been incorporated under our constitutional system with the checks and balances of congressional review. The mid-1970s experience of investigation of Intelligence, with its revelations and its sensational exaggerations, will not be repeated." ■

## Prof. Greenawalt Among Law Alumni, Student Runners at NYC Marathon

Cargo Professor of Jurisprudence R. Kent Greenawalt '63 was among several Columbia Law alumni and students who ran in the October 25th New York City Marathon. It was the second N.Y. Marathon for Professor Greenawalt, who finished in 3 hours, 24 minutes and 42 seconds, about three minutes faster than his time last year.

"I had hoped to do better this year than last and I'd hoped to get under 3:10 to qualify for the Boston Marathon," Professor Greenawalt said, "and I trained harder. But by the time I got to running it, I knew it wasn't going to happen." To be eligible for the prestigious Boston event, he believes he would have needed more rigorous training. He prepared for this year's New York City Marathon, his fourth 26.2 mile running competition, with "a couple of ten kilometer races and two Westchester half-marathons."

"I feel better for running generally," he said, admitting that the marathon distance is perhaps excessive. "If I just ran for health," he noted, "then 30 miles per week would be okay. But for marathon training I reached 70 miles a week, which I think is a greater commitment than that required for physical fitness."

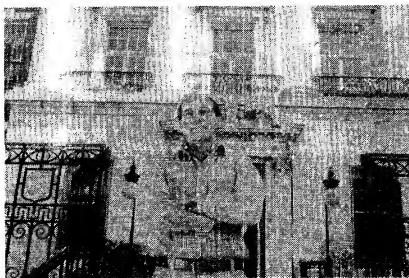
Professor Greenawalt is now uncertain whether he will exert the effort to train for next year's New York City Marathon. Although he was exhausted and somewhat depressed at the finish this year, he finds that "running makes me feel more relaxed," and hopes to resume training in the spring.

Professor Greenawalt's Law Class of 1963 may be the "runningest" group of Columbia Law alumni. Seven of his classmates joined him in this year's Marathon. David Blackstone, Neil Kramer, Robert Laufer, Marc Luxemburg, and Henry Minnerup, all Manhattan attorneys in private practice, and Robert Selya, senior attorney for Consolidated Edison, have run in the Marathon with Professor Greenawalt for the past two years.

Several students ran the Marathon this year, including two whose mileage went to fulfill monetary pledges to the Columbia Law School Student Funded Fellowships program. Jay Coste '81 and Doug Tennant '82 distributed pledge cards for the program around the Law School prior to the race. These funds will help increase the summer stipends of those Columbia Law students working in public interest jobs this summer. Other Columbia Law School runners included third-year students Mary Rosado and Mike McMahon, and library staff worker Monte Pagan. All finished the event, held in sub-50° weather, in under four hours. ■

# Philip Trager: The Lawyer as Photographer

Philip Trager '59 practices with the Fairfield, Connecticut, law firm of Trager and Trager, a firm founded fifty years ago by Mr. Trager's father, a prominent attorney and former president of the Connecticut Bar Association. The firm conducts a general civil practice. Mr. Trager is married, has two children, and leads a life that might be considered conventional were he not also an acclaimed artist. A photographer with three published books whose work is represented in the permanent collections of the Metropolitan Museum of Art, the Museum of Modern Art, and the Smithsonian Institution, Mr. Trager has exhibited nationwide and has been the subject of profiles in major photography journals. His 1977 book, *Photographs of Architecture* was a finalist for the Grand Prix Award at the International Festival of Photography in Arles, France. This book and his most recent volume were selected as "One of the Best Books of the Year" by the *New York Times* Annual Review of Books.



His latest work, *Philip Trager: New York*, was released in October by Wesleyan University Press. Its publication coincides with major exhibitions at the Witkin Gallery (October 22–December 6, 1980), the Museum of the City of New York (December 16, 1980–March 1, 1981), and the Ufficio Dell'Arte in Paris next spring.

Mr. Trager was interviewed for the *Observer* at the Museum of the City of New York in October as he was preparing for the winter exhibition of his photographs, some of which are shown on these pages. *Philip Trager: New York* is available through the Alumni Discount Book Sale.

**OBSERVER:** What in your career led you to take pictures?

**PHILIP TRAGER:** Nothing really. I never took a class or lessons in college because none were offered back then. Photography has experienced a renaissance in the last ten years or so. When I was in school, though, nothing was offered. And no one in my family ever had an interest in it. I just decided to do it on my own.

**O:** Does anything in your practice have to do with photography?

**TRAGER:** They are two separate aspects of my life, although lately there has been some cross-over.

**O:** Art law, you mean?

**TRAGER:** Yes, there is art law work, particularly for photographers, to be done. The largest portion is in estate planning. There are questions of potential valuation, problems with the worth of negatives, signed and unsigned prints. There are issues such as the archival life of an image, and the life of a color image which is different from black and white. It's an appropriate situation for pre-planning in the estate. My photography helps in this area, I'm sure. I wouldn't say it is a large part of my practice.

**O:** Do people come to you for legal advice having heard of you as a photographer?

**TRAGER:** Occasionally the two worlds come together. At the Witkin Gallery opening last night, as you saw, there were representatives from my legal world and clients, and there were also art world people from the photographic side.

**O:** How do you balance the two lives?

**TRAGER:** For better or worse, I do indeed practice law full time with a nine-member firm in Fairfield. Actually, I believe that "full time" might be an understatement! But one reason I'm able to do what I do is



13-15 West 122nd Street.

that I'm fortunate in being able to make a fast change-over. I can go out in the morning and forget the day before. If I'm in New York City on business, I don't think at all about photographing. I don't take time to look for subjects. It's almost always law, except for those times when I switch over and come down for the purpose of photographing. I do a fast changeover, and I can keep them separate.

**O:** Most lawyers are satisfied with being lawyers, and most photographers with being photographers. Why do you do both?

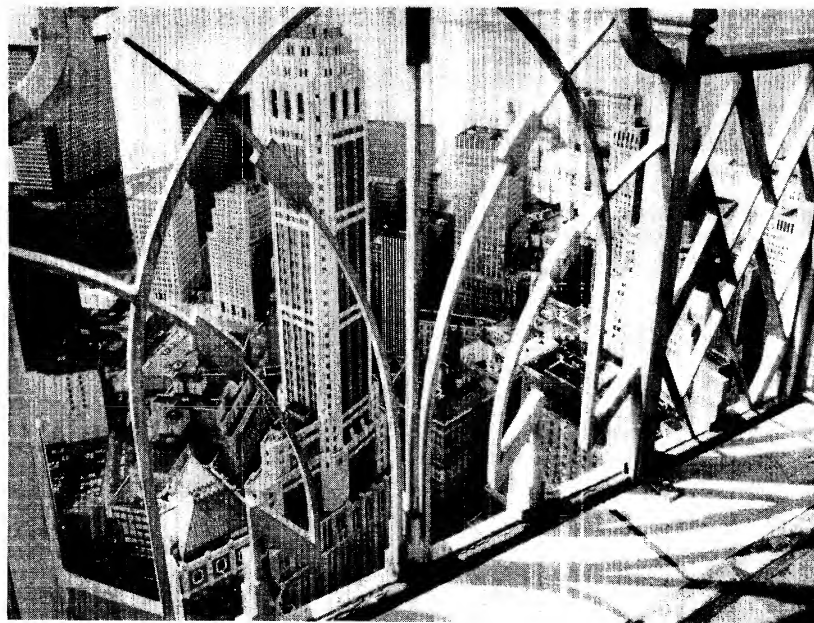
**TRAGER:** I have a need for both, and this may not please my photographer friends, but I've found it to be true for me: the law remains very cerebral and intellectually challenging for me. Photography, which I like very much, gives me emotional and visceral satisfaction, and it is a great release, but it certainly doesn't give me the intellectual challenge of the law. I'd love to have a little more time to photograph, but I'd never give up one for the other.

**O:** What do acquaintances from one world think of your inhabiting the other world?

**TRAGER:** When I first began photographing, I was a little afraid of what clients might think about it, and I exhibited all over the country before I showed any photos locally. I thought that clients might not believe that an artist could be a good lawyer. But just the opposite turned out to be true. In fact, it has been beneficial to my practice. Sometimes, you know, people think that lawyers aren't fully human. So people like to find that a lawyer has another dimension. They're more receptive, I've found. On the other hand, in the art world some people at first didn't want to accept the work seriously; they resented the idea that a lawyer could be an artist.

**O:** How does a lawyer get started in photography?

**TRAGER:** I had photographed in high school, but I put it aside when I went to college and law school. I was preoccupied with my practice during the early years, but then about twelve years ago I started think-



From the American International Building, 70 Pine Street.

## FUYO CHAIR ESTABLISHED HERE



At the dedication of the Fuyo Professorship in Japanese Law, in the Faculty Room of Low Memorial Library, October 7, 1980, (l to r): Sadao Ikeya, Director of the New York Office of Japan Foundation; His Excellency Ambassador Shotaro Takahashi, Consul General of Japan; Dean Rosenthal; Matsujiro Ikeda, Executive Vice President of Marubeni Corporation; President Sovern; and University Professor Emeritus Walter Gellhorn.

### Continued from Page One

Columbia University in the pivotal city of New York."

Present at the ceremony were over 100 guests, including U.S. and Japanese government officials, members of the Columbia administration, faculty, alumni, and representatives of the companies composing the Fuyo Group. The Group was formed in the early 1960's to promote friendship, exchange information, and organize large scale cooperative projects. It includes such companies as the Fuji Bank, Canon,

Hitachi, Nissan Motors (makers of Datsun), Sapporo Breweries, and other important national and international industries in the fields of petroleum, chemicals, construction, electronics, insurance, heavy industry, transportation, and trading. Last year the Group's sales totalled about \$90 billion, roughly 9% of Japan's gross national product.

A discussion of Japanese legal studies at Columbia, by Professor Young, as well as a pictorial record of the presentation ceremony for the new Professorship, appear in the current issue of the *Columbia Law Alumni Bulletin*, which is sent to all alumni. ■

### Columbia Law School Alumni Association Calendar 1981

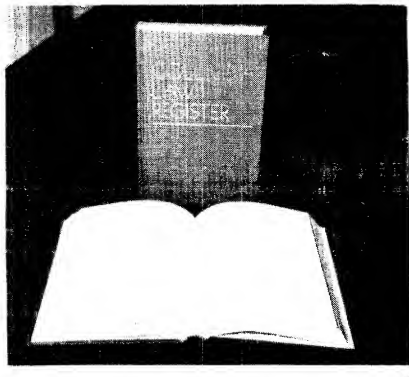
Monday, January 5	Association of American Law Schools	San Antonio, Texas
Tuesday, January 6	Alumni of Washington Luncheon Reunion	Seattle, Washington
Friday, January 16	C.L.E. Program on Tax	Columbia Law School
Friday, January 23	Thirty-Second Annual Winter Luncheon	Biltmore Hotel
Friday, February 6	Houston Alumni Luncheon with Dean Rosenthal	Houston, Texas
Saturday, March 7	All-Day Phonathon	Williams Club
Saturday, March 28	Twenty-Second Annual Symposium & Annual Meeting	Columbia Law School

For information about these events, please contact Judith Jacobs in the Alumni Office at (212) 280-2681.

## REGISTER 1980

The long-awaited new edition of the COLUMBIA LAW REGISTER has appeared. This useful reference tool features updated biographical data on Law School alumni and convenient listings by class, geographical area, and last name. The REGISTER has been mailed FREE to all Life Members of the Columbia Law School Alumni Association and to members who have paid dues for two or more consecutive years, beginning with the year 1979-80.

If you have not yet joined the Association, you will receive a copy of the REGISTER upon payment of two years' dues (1980-82). If you were a member in 1979-80, you need only pay dues for 1980-81 to qualify. If further information is needed, write or call the Law School Alumni Office, 435 West 116th Street, New York, New York, 10027, (212) 280-2681.



## Former Professors Handler and Frankel Cited by Civic Groups

Two prominent Manhattan alumni and former faculty members of Columbia Law School were honored this fall by Jewish civic organizations. Professor Emeritus Milton Handler '26, senior partner with Kaye, Scholer, Fierman, Hays & Handler, and the Honorable Marvin E. Frankel O'48, a member of Proskauer Rose Goetz & Mendelsohn, received awards at two New York ceremonies.

At their annual dinner on December 16th, the Lawyers Division of the United Jewish Appeal-Federation of Jewish Philanthropies bestowed their Joseph M. Proskauer Award on Professor Handler in recognition of his philanthropic leadership. The U.J.A.-Federation declared, "We not only acknowledge his superb professional achievements, but also take pride in joining him in support of yet another great humanitarian cause that is life-sustaining for the Jewish people."

Professor Handler taught at Columbia Law School from 1927 to 1972. An internationally known authority on antitrust and trademark law and author of numerous works on these subjects, he has on many occasions provided counsel to U.S. government agencies, including the National Labor Board, the Treasury Department, the Lend Lease Administration, and the Foreign Economic Administration. In 1974 the Milton Handler Chair in Trade Regulation was established in his honor at Columbia Law School, and in 1976 he received the Law School Alumni Association's Medal for Excellence.

Guest speaker at the U.J.A.-Federation dinner was Paul A. Freund, Carl M. Loeb University Professor Emeritus at Harvard. The award was presented to Professor Handler by the Hon. Jack B. Weinstein O'48, who is Chief Judge of the U.S. District Court for the Eastern District of New York and a former colleague of Professor Handler on the Columbia Law faculty.

Judge Frankel, who taught at Columbia Law School from 1962 to 1965, accepted the Justice Award of the American Jewish Congress at a dinner on October 20th. The award recognizes his "distinguished contributions to American jurisprudence and a lifetime of dedication to human rights and the creative survival of the Jewish people." A.J.C. President Howard M. Squadron '47 noted Judge Frankel's chairmanship of the New York City Bar Association committee on international human rights, and of the Lawyers Committee on Soviet Jewry.



Howard M. Squadron O'47 (left), president of the American Jewish Congress, presents the organization's Justice Award to former U.S. District Court Judge Marvin E. Frankel O'48.

A director of the civil rights institute of the N.A.A.C.P. Legal Defense and Education Fund, Judge Frankel is also active in the Lawyers Committee for International Rights and the U.S. Helsinki Watch Committee. He is chairman of the board of trustees of Cardozo Law School and author of a number of books (see the "Alumni Books" column in the *Observer*, Oct. 30, 1980). From 1965 to 1968, he was a U.S. District Judge for the Southern District of New York. ■



# Continuing Legal Education Program—January 16, 1981

## TAXING THE SALE FOR FUTURE PAYMENT: AFTER THE INSTALLMENT SALES REVISION ACT OF 1980

### PROGRAM

This one day program will analyze the major changes in federal income taxation of deferred payment sales that were made by the October 19, 1980 enactment of The Installment Sales Revision Act of 1980, and will explore as well a number of the significant tax issues in the area left unresolved by the new legislation. Among the matters to be covered are:

Extension of the Installment Sale Concept  
Basis Recovery in Contingent Payment Sales  
Shareholder Installment Reporting in Section 337 Liquidations  
Related Party Transactions  
Like-Kind, Reorganization, and Incorporation Exchanges Involving Debt Boot  
Problems of Payment: Debt Assumption, Taking Subject, Wraparound, Novation, and Cancellation; Escrow, Guarantee, and Letter of Credit Security  
Disposition of Installment Obligations  
Electing out of Installment Treatment: The Surviving Potential of Cost Recovery  
Private Annuity Transactions  
Accrual Method Dealers Electing the Installment Method

Federal income taxation of sales for future payment has for decades exemplified the proliferating complexity of the Internal Revenue Code, regulations, administrative pronouncements, and court decisions. Aided by a unique collegial effort by the Staff of the Joint Committee on Taxation, Treasury Department, Bar Association Tax Groups, and the AICPA, late in 1980 Congress made major but not all encompassing changes in governing law. The Installment Sales Revision Act of 1980 limits or, in some cases, eliminates the tax advantage prior law accorded a variety of related party sales. But the principle achievement of the new legislation is in providing a base for clarifying and simplifying the installment sale rules as they apply in practice.

While the statute adequately delineates the Congressional policy directives and the Committee Reports extend the statutory language, the statute is

not self operative. Broad authority to regulate is delegated to the Treasury Department. It is anticipated that an extensive body of temporary and proposed regulations will have been published prior to January 16, 1981. An analysis of the temporary and proposed regulations will be a central feature of the Program.

The concluding portion of the Program will be devoted to significant future payment problems that were not directly addressed in the 1980 legislation, some but not all of which may be collaterally affected by that legislation and the opportunity to regulate that is afforded by it to the Treasury. Following this discussion, the Program will close with a question period.

### PROGRAM SCHEDULE

9:15-9:45 a.m.  
Registration and coffee at the Law School  
9:45-11:00 a.m.  
Traditional Installment Sales  
Contingent Payment Series  
11:00-11:15 a.m.  
Coffee break  
11:15-12:30 p.m.  
Private Annuity Transactions  
Section 337 Transactions  
12:30-2:00 p.m.  
Lunch  
2:00-4:15 p.m.  
Partial Recognition Exchanges  
Related Party Transactions  
Election out of Installment Treatment  
Special Disposition Problems  
4:15-4:45 p.m.  
Question Period  
4:45-6:00 p.m.  
Reception

### PROGRAM FACULTY

MARTIN D. GINSBURG, Professor of Law at Georgetown University Law Center and formerly Charles Keller Beekman Professor of Law at Columbia Law School, will present the program. Professor

Ginsburg is Chairman of the Committee on Simplification of the Section of Taxation of the American Bar Association, former Chairman of the Tax Section of the New York State Bar Association, and former Chairman of the Committee on Taxation of the Association of the Bar of the City of New York. He represented the three bar groups in the collegial process of formulating The Installment Sales Revision Act of 1980. Professor Ginsburg is also a member of the American Law Institute and consultant to the Institute's Federal Income Tax Project, a member of the Tax Division (Department of Justice) Advisory Group, and a former member of the Commissioner's (of Internal Revenue) Advisory Group.

### TEACHING MATERIALS

The teaching materials will consist of a detailed outline analyzing the provisions of The Installment Sales Revision Act of 1980. The outline will focus on the prior law problems to which the legislation was addressed, the ways in which Congress sought to deal with those problems, new or unresolved issues that emerged from the Congressional action, and published or anticipated Treasury responses to these issues. New Internal Revenue Code and temporary and proposed regulation provisions, as well as selected Committee Report and other pertinent background legislative documents, will be included in the teaching materials.

### TUITION

The tuition fee for the complete program, which includes instructional materials, luncheon and reception, is \$250.00.

### FURTHER INFORMATION

Application and requests for additional information should be addressed to:

Howard F. Maltby  
Associate Dean  
Columbia University School of Law  
435 West 116th Street  
New York, New York 10027  
Telephone: (212) 280-2683 ■

## The Parker School of Foreign and Comparative Law Conference on International Contracts

The Parker School of Foreign and Comparative Law will hold an international conference on the occasion of its fiftieth anniversary. The conference will be devoted to the subject of International Contracts, and will take place at Columbia Law School on April 9 and 10, 1981.

The topics to be addressed include:

- I. The Applicable Law—National and International
- II. Avoidance of Otherwise Applicable Law By Choice-of-Law and Choice-of-Forum Clauses
- III. Procedure and Remedies in International Contract Arbitration
- IV. Sovereign Immunity in Disputes on International Contracts
- V. International Deposit Contracts
- VI. International Pre-Contractual Obligations
- VII. International Contracts with Government

Among those delivering papers at the conference will be:

George A. Bermann '75LL.M., Professor of Law, Columbia University  
Dominique G. Carreau, Professor of Law, University of Paris I

Tatiana B. de Maekelt, Legal Counsel, Organization of American States  
Henry P. de Vries '37, Professor Emeritus of Law, Columbia University  
Willis L. M. Reese, Charles Evans Hughes Professor of Law, Columbia University  
Hans Smit '58, Stanley H. Fuld Professor of Law, Columbia University  
George Van Hecke, Professor of Law, University of Leuven  
W. Freiherr von Marschall, Professor of Law, Director for International Private Law and Comparative Law, University of Bonn  
J. Gillis Wetter, Counselor-at-Law, Stockholm, Sweden

The fee for participating in the conference is \$100.00, which covers the cost of the luncheons, reception, and dinner, as well as the cost of the papers delivered at the conference which will be published in book form. The participation fee for full-time law teachers is \$50.00. Those interested in participating in the conference should send a check in the proper amount made out to the Parker School of Foreign and Comparative Law, and sent to the Director of the Parker School, 435 West 116th Street, New York, New York, 10027. ■

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Larry Downing—NEWSWEEK

Reagan meets with Meese, Casey and Weinberger: 'OK, I've heard you, but my decision is this'

## The Making of the Cabinet

Ronald Reagan wasn't sure what to do. Vice President-elect George Bush was urging him to name Malcolm Baldrige as his Commerce Secretary, but other Republicans argued that GOP National Committee Chairman Bill Brock had earned the job. Not knowing Baldrige well, Reagan asked an aide to get him on the phone so he could sound him out personally. But Baldrige, a rodeo enthusiast, was out lassoing calves in the practice ring at his New Mexico ranch when the call came. That was all Reagan needed to hear. Told that Baldrige couldn't come to the phone because he was out roping, the President-elect broke into a wide grin. "That's my guy," he beamed.

**Aloof:** Not all of Reagan's Cabinet decisions were made quite so easily. As pieced together by NEWSWEEK, the making of Reagan's Cabinet was a convoluted process that consistently defied his efforts to simplify it. Though Reagan had come to the task with his mind pretty well made up on at least nine of the sixteen top-line ap-

pointments, three of his early favorites turned him down. As the process inched along, Reagan remained aloof until the candidate lists had been whittled down by his senior advisers. "I don't even want to know about it," he told aides during the early days. The inner circle that made most of the initial choices included Bush, chief of staff James Baker, CIA director-designate William J. Casey, appointments secretary Michael Deaver, head-hunter E. Pendleton James, Sen. Paul Laxalt, Attorney General-designate William French Smith and—most important—chief counselor Edwin Meese. "In the selection of the Cabinet, Ed Meese was the deputy President," says a transition aide. "In almost every case, it was just as important to sell Meese on a candidate as it was to sell Reagan."

The process began in earnest the day after the election, when Reagan's twenty-member Cabinet selection advisory committee held the first of three major meetings at Smith's Los Angeles law firm. Reagan gave the group a brief pep talk, then ducked

out as it began considering several hundred names compiled over the summer and fall by James. By its second meeting, two weeks later, the group had produced what it called a "final list"—a roster of three to ten candidates for each Cabinet-level job except U.N. ambassador. James brought the list to Reagan. "That," says an aide, "was the first time he was brought into the process."

The advisory committee, which included Reagan's kitchen cabinet of longtime California friends as well as his inner circle of senior aides, met a third and final time on Nov. 22. With Reagan saying little, the committee discussed the Cabinet slots one by one, evaluating each candidate. The meeting was chaired by Smith, who had to step outside every

time his name came up as a potential Cabinet officer. So did committee member Caspar Weinberger, who was under consideration for so many jobs that he wound up spending nearly half the meeting in the hall.

**Choices:** Two days later the eight-man inner circle gathered in Reagan's Pacific Palisades living room. This time Reagan was not silent. Taking each job in turn, he read aloud the names of all the candidates, and then asked for comments. In seven cases he made his choice: Baldrige for Commerce, Casey for CIA, Smith for Justice, Ray Donovan for Labor, Clifford Hansen for Interior, Drew Lewis for Transportation and Richard Schweiker for Health and Human Services. He also indicated his inclination to give Energy to John Connally and OMB to Dave Stockman. Some of the choices came as no surprise to the group. Reagan had settled on Donovan, Lewis and Schweiker much earlier in the game, never seriously considering anyone else for their slots. Others required further discussion; the selection of Smith, for example, bothered some advisers who considered it unwise to have Reagan's close friend serving as Attorney General. And

Five who came close to joining the President-elect's new Cabinet: Simon, Connally, Hansen, Yeutter, Lyng

Robert R. McElroy—NEWSWEEK

John Ficarra—NEWSWEEK

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UPI



they doubted that Connally—who wanted a major portfolio such as State or Defense—could be persuaded to take Energy.

But Reagan stuck to his guns in every case. "He would listen and say, 'OK, I've heard you, but my decision is this,'" an insider recalls. "Then he would say, 'Next,' and you knew you had a Presidential decision." Smith was a personal favorite and Reagan would not be budged. Reagan also very much wanted Connally in his Cabinet, but he was simply not prepared to offer him either State or Defense. He was thinking of Weinberger or Alexander Haig for those posts—though precisely who would get which was still up in the air. (Former Treasury Secretary George Shultz had already taken himself out of the running for State.)

Reagan was also not sure whom to name as Treasury Secretary. William Simon had been the leading candidate, but his outsized ambitions ("He wanted to be an economic czar," says one insider) did not sit well with a number of senior Reagan staffers, and a groundswell of opposition began building. Simon, who was in Saudi Arabia on business, was enraged that no one in the Reagan camp was defending him. Finally, on Nov. 24, just as the inner circle was preparing to gather at Reagan's home, Simon telephoned Smith from Saudi Arabia to tell him to withdraw his name from consideration. Smith passed the word to Reagan. "I want to talk to Bill myself," Reagan said, "but we ought to be thinking about some other names."

**Dark Horse:** Those other names included Citicorp chairman Walter Wriston and Merrill Lynch chairman Donald Regan. Wriston was briefly the front runner, but he was dropped from consideration because he had divestiture and conflict-of-interest problems. Regan was a darker horse. James had been impressed when he interviewed him at Merrill Lynch's New York headquarters early in October. But neither Meese nor Baker had ever met him. A private dinner at the University Club in Washington was quickly arranged—and Regan passed inspection with flying colors. "He was a late bloomer," says a Reagan topsider, "but within a few days—bam!—he was in."

Other problems soon arose. As expected, Connally refused to accept the Energy portfolio, which was then given to former South Carolina Gov. James B. Edwards, who was pushed by Sen. Strom Thurmond. More surprising, Laxalt's choice for Interior Secretary, former Sen. Clifford Hansen of Wyoming, said no. Hansen, whose family has ranches in Jackson Hole since 1898, was afraid that tough conflict-of-interest regulations would require him and his children to give up their Federal grazing permits if he took the Interior job. "My wife and I were willing to forgo our grazing permits and give up ranching," he says, "but we didn't feel it was fair to ask my daughter and son to give up their livelihood."



1669 San Onofre Drive  
Pacific Palisades, California 90272  
January 1, 1981

Dear Betsy:

Well, we've just about made up our minds to sell the old place in Pacific Palisades—and I'm going to be sorry to say goodbye—sorrier than Ronnie, who I think is really happiest at the ranch. *He* may think it's fun tramping around the countryside stamping on rattlesnakes, but to me this house will always feel like home. It's been 24 years since we built up here to be near Robert Taylor, and I just love all the touches that make it mine: the funny little nooks and alcoves, the atrium, lots of bedrooms for the kids and the walls that nice dignified beige gray. The pool isn't much by Bel Air standards, I guess, and you can really only see the ocean when the smog lifts, but I feel so *secure* here, with that special burglar-alarm system I can set off from my bedside. I showed it off for the sixteen real-estate agents last week, and they were *very* impressed. We're thinking of asking \$1.9 million, and Jim Wix of the Coldwell Banker agency called it "a fair asking price." Not bad, when you think that it cost us \$23,500 back in 1956. Better sell it now, I guess, before Ronnie whips inflation.

It just got too much for the neighborhood, you know: tourists all the time, reporters all over the place and the Secret Service worried about those brushfires they get up here. It's not very secluded; most houses are pretty close together. And it *is* kind of expensive to run: General Electric gave Ronnie all these appliances, and he once joked that the house had a private cable to Hoover Dam. But Jim Wix thinks it's going to sell fast. "It's rather dramatic," he said to me. "From a marketing point of view it has a lot of appeal." I tell you, there's only one house in the country I'd trade it for, even if we have to wait till Inauguration Day to fix it up.

Love,

Nancy

Colorado brewer Joseph Coors, a member of Reagan's Kitchen Cabinet, quickly suggested an alternative: James Watt, a lawyer who heads the anti-environmentalist Mountain States Legal Foundation. Watt flew to Washington to meet Reagan, who pronounced himself impressed and ordered a final background check.

Meanwhile, Meese was putting the final touches on Haig's appointment as Secretary

of State. Reagan had wanted to give Haig the job all along. The only question he had was whether Haig's association with former President Nixon would endanger his confirmation by the Senate. On Dec. 10, Haig met with Meese, Baker, Laxalt and James in James's Washington hotel room to go over every major question the Senate might raise about his involvement with Watergate and the Nixon pardon. "He answered every



one of them easily," says Laxalt. The next day the group recommended to Reagan that Haig get the nod. The decision to put Haig at State meant that Reagan could follow his initial inclination to install Weinberger at Defense. "The governor really wanted Cap in the Pentagon," says a senior aide. "He decided he needed to have a good manager who understood budgets and could get all the fat out."

That left just three slots to be filled—Housing and Urban Development, Agriculture and Education. The only problem with the inner circle's HUD choice, New York attorney Samuel Pierce, was that Reagan had never met him—and that was remedied by flying Pierce out to Reagan's Pacific Palisades home for a brief tête-à-tête on Dec. 18. Agriculture proved considerably more difficult. The senior staff had narrowed the field to Clayton Yeutter, president of the Chicago Mercantile Exchange. But incoming Senate Finance Committee chairman Robert Dole, angry that Reagan had nominated Stockman and Reagan without consulting him—and annoyed at the difficulty his wife, Elizabeth, had encountered in winning a post on the President-elect's White House staff—was determined to block Yeutter's appointment. In his place, Dole proposed John Block, a hog farmer who had served as Illinois secretary of agriculture. But the farm lobby, worried that Block might not be up to the job, began pushing another candidate, former California agriculture secretary Richard Lyng.

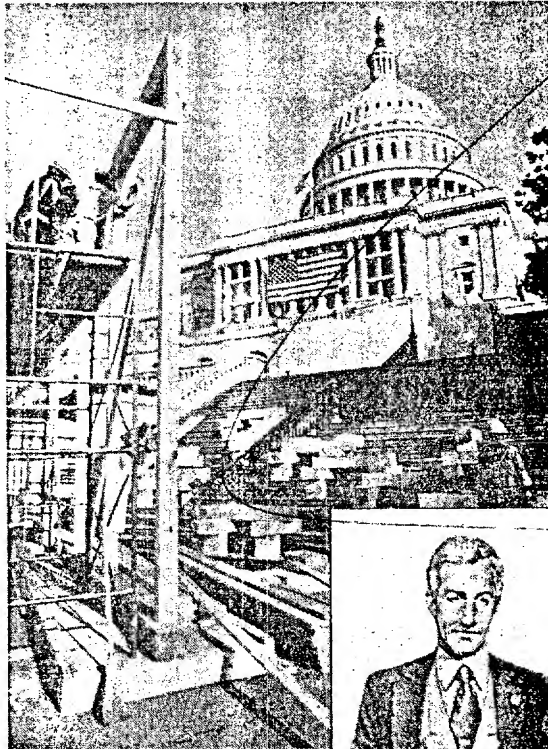
**Chemistry:** Reagan's advisers decided to buck the agriculture decision directly to the President-elect. Reagan invited both Block and Lyng to his home—and after hour-long meetings with each, he told aides he preferred the aggressive, articulate Block to the low-key, unassuming Lyng. (Lyng was never told he hadn't gotten the job; he read it in the newspapers.) Reagan's decision to appoint Block wasn't simply a matter of personal chemistry, however. "You can't really have a Californian for Agriculture Secretary," says a top aide. "That's like trying to appoint a Secretary of the Interior from Connecticut."

Education wasn't nearly as politically volatile as Agriculture, but it proved more difficult to fill. The problem was simple: there were virtually no qualified people interested in heading a department that Reagan has pledged to abolish. Labor economist Thomas Sowell, who had been mentioned as an early favorite, was knocked off the list because he lacked administrative experience—and Pierce, who was offered the job, turned it down in favor of the HUD appointment. Reagan aides say they hope to name an Education Secretary early this week—just in time to join the other sixteen appointees for a two-day orientation session in Washington designed to acquaint them with Reagan's idea of Cabinet government.

ALLAN J. MAYER with GERALD C. LUBENOW in San Francisco, MARTIN KASINDORF in Los Angeles and bureau reports

# Inauguration Spectacular

The President-elect and his entourage will adopt the "stroller" jacket and striped trousers as the Inaugural uniform of the day. Mrs. Reagan will hold the family Bible for her husband's swearing in. There will be fireworks, marching bands, formal receptions—even a concert of golden oldies by the Beach Boys at venerable Constitution Hall. But if the Inauguration of Ronald Reagan marks a return to "this country's basic values," as Inaugural Committee co-chairman Charles Z. Wick put it, there will be at least one distinctly modern touch.



John Ficarra—NEWSWEEK

*Building the bleachers, modeling the Reagan look: From stagecoach to satellite*

For the first time, the Inaugural ball will be staged simultaneously in more than 100 cities across the country, all linked by satellite TV. The idea, says co-chairman Robert K. Gray, "is to share with as many Americans as possible the opportunity to participate. Just as people in George Washington's day attended the Inaugural by stagecoach, we're proposing that Americans today attend by satellite."

**No-Frills No More:** Thousands of celebrants are expected at satellite balls, from Columbus, Ga., to Hastings, Neb. Washington itself is in for four straight days of parties, dinners and galas, culminating in eight separate Inaugural balls and an Inaugural youth disco. The superstar entertainment ranges from Frank Sinatra to

Mikhail Baryshnikov to the Mormon Tabernacle Choir, and the whole shebang will probably cost in excess of \$8 million—nearly twice the tab for Jimmy Carter's homespun hoopla four years ago. "We want to avoid the no-frills feeling," says Gray. They will: tickets for a candlelight dinner at the Kennedy Center with the Reagans and the George Bushes run to \$250 a plate. Rental tailcoats have all but vanished from the capital. "I offered \$60 for the usual \$40 rental, and it was still no go," one Reaganite laments. "I'm going to have to go out of town to get dressed."

The prospect nonetheless is for One Swell Time, even for cloth-coat Republicans—some of whom, like dapper Sen. Larry Pressler of South Dakota, have already objected to the prescription of semiformal dress ("a little foolish," Pressler grumps). Barring inclement weather, something like 139,000 people are expected to watch the swearing-in ceremony, which will be held for the first time on the west steps of the Capitol, rather than the east front. The 304 distinguished guests on the platform may include Jacqueline Onassis and former President Gerald Ford—though Richard Nixon has declined his invitation. After taking the oath of office and making his Inaugural Address, Reagan will drive, not walk, to the White House to review the Inaugural parade, cut to only an hour in the interests of what Gray calls "more action-packed" viewing on national television.



David Martin—New York Times

**Smorgasbord:** By then, network television coverage may already be near the saturation point. All three networks are assembling armies of technicians to cover the spectacle with news and special programs, and the Inaugural Committee has bought two hours of prime time for a Hollywood-comes-to-Washington gala assembled by Sinatra.

Broadcast from the Capital Centre outside Washington, the show will star Johnny Carson and a showbiz smorgasbord that seems aimed at the core of Reagan's America. High culture will be reserved for the gentry at the Kennedy Center: Baryshnikov and an elite corps de ballet in one hall, pianist Rudolf Serkin and the National Symphony in another. "Class has returned to Washington," says a Reaganite.

It has returned 40,000 strong, to judge by the guest list for the Inaugural balls

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# Cabinet: Pragmatic, Efficient, Conventional

By Lou Cannon  
Washington Post Staff Writer

If Ronald Reagan's Cabinet provides a clue to the way his administration will perform, it is likely to be pragmatic, hard-working and largely lacking in unconventional ideas.

The Cabinet, finally completed last week with the selection of Terrel H. Bell as secretary of education, is overwhelmingly white, male, middle-aged, professional and balanced among conflicting claims within the Reagan constituencies. For the most part, the same description could have been made of the California state cabinet during Reagan's eight years as governor.

Like President Carter before him, Reagan turned for his key Cabinet appointments to his loyal cadre in state government and to survivors of his party's last national administration.

Carter pledged to be a different kind of Democrat and then relied on the second-string of the Kennedy and Johnson administrations for several major appointments. Reagan, after promising that he would unleash the genius of the free enterprise system and bring to Washington the best brains it could provide, chose major figures of the Nixon administration for two of his top four Cabinet positions: Alexander M. Haig Jr. as secretary of state and Caspar W. Weinberger as secretary of defense. The number would have been three of four if Reagan's first choice as secretary

of the treasury, John B. Connally, had been willing to take the job a second time.

Reagan's other top Cabinet selection — William French Smith as attorney general — is the latest entry in the old-crony sweepstakes at the Department of Justice. This, too, followed the predictable pattern of Reagan's governorship; he named his executive secretary to the state supreme court.

"Traditional" is the way one veteran Republican describes most of Reagan's choices. For the most part, this assistant to the transition thinks that the Reagan choices will perform professionally and efficiently but are not likely to make waves.

"Ron Reagan doesn't like surprises," says

one of the incoming president's financial supporters. "He likes people around him whom he knows and trusts."

Of the 16 Cabinet-level selections, Smith is a personal friend and Weinberger, a loyal former aide whom Reagan used to refer to as "my Disraeli." Central Intelligence Agency Director-designate William J. Casey was Reagan's 1980 campaign director. Energy Secretary-designate James B. Edwards, in addition to representing a traditional political payoff to southern supporters, backed Reagan in 1976 when his challenge to President Ford found help scarce among GOP officeholders.

Two others on the list are also loyal Reaganites — Transportation Secretary-designate Drew Lewis, who was an effective Reagan operative at the Republican National Committee, and Health and Human Services Secretary-designate Richard S. Schweiker, who has rarely differed with Reagan since the former California governor picked him for vice president in 1976.

But Lewis and Schweiker also demonstrate the ability of Reagan to reach out beyond his natural conservative base in the Republican Party, as does the selection of James Baker III as White House chief of staff. Baker was Ford's chairman in 1976 and Lewis was the Ford campaign director in the key state of Pennsylvania. Schweiker used to be considered a GOP liberal, and he is still likely to differ with conservatives on such potentially touchy issues as health maintenance organizations.

Reagan's Cabinet selection process, and to some degree the Cabinet itself, demonstrates three Reagan characteristics that are likely to be important in the presidency: his seeming detachment from the daily business of governing, his proclivity for balancing conflicting constituencies, and a somewhat contradictory tendency to cling stubbornly to a pet notion or appointment.

Reagan's detachment, so extreme in comparison to his immediate predecessors that it seems almost like indifference, was evident throughout the selection process. He considered this

style a virtue as governor, when he frequently decided an issue from a narrowed list of options brought to him by aides.

But Reagan can be a hard man to dissuade when he has made up his mind about something. He hardly knew Haig personally but was convinced that the former NATO commander had the quality of professional toughness Reagan much admires coupled with a "realistic" view of Soviet military capacity and intentions. Suggestions that Haig could face a difficult Senate confirmation fight never made headway with Reagan, who was willing to fight for his first choice.

Three other Reagan selections demonstrate an executive capacity for overriding the suggestions of his staff. One is Smith, whom Reagan wanted at his side in Washington regardless of qualifications or stories about "cronyism." Another is Casey, whose energy and intellectual capacity were questioned by some of his former colleagues on the campaign staff.

The third and in a way most interesting Reagan personal choice is his only woman Cabinet nominee, Georgetown Prof. Jeane J. Kirkpatrick as ambassador to the United Nations. Reagan became interested after reading a Kirkpatrick article in "Commentary" given him by foreign policy adviser Richard V. Allen. Candidate Reagan asked to have a meeting, interviewed her on his campaign plane and became personally convinced she should have a role in his administration.

What may have fascinated Reagan with self-styled "old liberal" Kirkpatrick — the only Democrat in his Cabinet — is that she seems to be embarked on the same long voyage from liberalism to conservatism which Reagan traveled long ago. As such, she ratifies for the incoming president one of his favorite notions, that the Democratic Party deserted him rather than the other way around.

Reagan's pragmatic tendency to be

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